

MEMORANDUM TO: James J. Jochum
Assistant Secretary
for Import Administration

FROM: Ronald K. Lorentzen
Acting Director
Office of Policy

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset Review of
the Antidumping Duty Suspended Investigation on Certain Hot-Rolled
Flat-Rolled Carbon-Quality Steel Products from the Russian
Federation; Final Results

SUMMARY:

We have analyzed the substantive responses of the interested parties participating in the first sunset review of the antidumping duty suspended investigation on certain hot-rolled flat-rolled carbon-quality steel products ("hot-rolled steel") from the Russian Federation ("Russia"). We recommend that you approve the positions we have developed in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in this expedited sunset review for which we received comments by the domestic interested parties. Respondent interested parties did not comment.

1. Likelihood of Continuation or Recurrence of Dumping

- A. Volume of imports
- B. Weighted-average dumping margins

2. Magnitude of the Margin Likely to Prevail

- A. Margins from the investigation

History of the Suspended Investigation

On October 22, 1998, the Department of Commerce ("Department") initiated an antidumping duty investigation on hot-rolled steel from Russia based on a petition filed by U.S. Steel Group (a Unit of USX Corporation), Bethlehem Steel Corporation; Ispat Inland, Inc., LTV Steel Company, Inc., and

National Steel Corporation. See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil, Japan, and the Russian Federation, 63 FR 56607 (October 22, 1998) (“Initiation Antidumping Investigation”).

On July 12, 1999, the Department entered into a Suspension Agreement with the Ministry of Trade of the Russian Federation (“MOT”). See Suspension of Antidumping Duty Investigation: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Russia, 64 FR 38642 (July 19, 1999). The Department also continued its investigation and on July 19, 1999, the Department also published its final determination of sales at less than fair value. See Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Steel Products from Russia, 64 FR 38626 (July 19, 1999) (“Final Determination”). On August 27, 1999, the USITC published its final determination that the domestic industry was being materially injured by reason of imports of Russian steel. See Certain Hot-Rolled Flat-Rolled Steel Products From Brazil and Russia, 64 FR 46951 (August 27, 1999).

In its final determination of sales at less than fair value, the Department calculated weighed-average dumping margins of 73.59 percent for JSC Severstal and 184.56 percent Russia-wide. See Final Determination (July 19, 1999). The Department determined to use total facts available for the Russia-wide rate because certain entities did not respond.

The Department provided interested parties opportunity to request administrative reviews, however, no administrative reviews have been requested by parties. The Agreement on hot-rolled steel from Russia remains in effect on all imports of subject merchandise.

Background

On May 3, 2004, the Department initiated the first sunset review of the suspended antidumping duty investigation of hot-rolled steel products from Russia in accordance with section 751(c) of the Tariff Act of 1930, as amended (“the Act”). See Initiation of Five-year (“Sunset”) Reviews, 69 FR 24118.

Within the applicable deadline specified in section 351.218(d)(1)(i) of the Department’s regulations, the Department received notices of intent to participate on behalf of Nucor Corporation (“Nucor”), United States Steel Corporation (“U.S. Steel”), International Steel Group, Inc. (“ISG”), Gallatin Steel Company (“Gallatin”), IPSCO Steel Inc. (“IPSCO”), Steel Dynamics, Inc. (“SDI”) and Ispat Inland Inc. (a division of Ispat Inland Flat Products)(collectively “domestic interested parties”).¹ The domestic interested parties claimed interested-party status as producers of subject merchandise in the United States as defined by

¹ Gallatin, IPSCO, SDI, U.S. Steel, and Ispat Inland Inc. were petitioners in the original investigation. ISG was formed in 2002 and is the successor company to petitioners LTV Steel Company and Bethlehem Steel Corporation. Nucor is a domestic interested producer of subject merchandise.

section 771(9)(C) of the Act. Domestic and respondent interested parties must submit substantive responses to the notice of initiation within 30 days of initiation of the sunset review in accordance with section 351.218(d)(3)(i) of the Department's regulations. The Department received complete substantive responses from the domestic interested parties within the 30-day deadline specified in the Department's regulations under section 351.218(d)(3)(i). However, the Department did not receive any responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218 (e)(1)(ii)(C)(2) of the Department's regulations, we conducted an expedited sunset review of this suspended investigation.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether termination of the antidumping duty suspended investigation would likely lead to continuation or recurrence of dumping. Section 752(c)(1) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty suspended investigation. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission ("USITC") the magnitude of the margin of dumping likely to prevail if the antidumping duty suspended investigation were terminated. Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

Domestic interested parties assert that the Department should conclude that Russian exporters of hot-rolled steel cannot sell in the United States without dumping and that to re-enter the U.S. market they would have to resume dumping. See Domestic Interested Parties' Substantive Response ("Domestic Response"), June 2, 2004 at 5-9. Domestic interested parties note that in the investigation the Department found significant dumping by Russian producers. The domestic interested parties also argue that there was an immediate and dramatic effect on imports of hot-rolled steel from Russia to the United States, i.e. in 1998, the year before the Agreement, subject imports totaled 3.8 million tons and in 1999, the year in which the Agreement took effect, import volumes declined by 99.5 percent. Id. at 6 and Table 1. Each year following the conclusion of the suspension agreement, imports of hot-rolled steel declined by at least 95 percent from their 1998 pre-suspension agreement totals, and imports volumes have averaged only 17 percent of quota levels. Id. at 7-8. At the peak year for Russian imports since the conclusion of the suspension agreement, 2000, subject imports reached their highest

level of imports and that amount totaled only 56 percent of the export quotas. Id. Domestic interested parties further note that the Russian government also has complained that Russian producers were unable to sell steel in the United States at the price dictated by the agreement because hot-rolled prices in the United States are too low. Id. at 7 and Exhibit 4 -- Article dated December 8, 2000.

The domestic interested parties point to a similar sunset review, Certain Cut-to-length Steel Plate from Ukraine, 68 FR 24434 (May 7, 2003), where the Department compared post-agreement imports to both pre-petition import levels and the quota levels set by the Agreement. They note in that final results of that review, the Department compared the level of import volumes to Agreement quota limits and to pre-investigation levels and determined that dumping is likely to continue or recur if the Agreement were terminated. See Domestic Response, June 2, 2004 at 8.

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URRA"), specifically the Statement of Administrative Action ("SAA"), H.R. Doc. No. 103-316, vol. 1 (1994) at 826, the House Report, H. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. See Policies Regarding the Conduct of the Five-Year ("Sunset") Reviews of Antidumping & Countervailing Duty Orders, Policy Bulletin, No. 98.3 (April 16, 1998) ("Sunset Policy Bulletin"). The Department clarified that determinations of likelihood will be made on an order-wide (country-wide) basis. See Sunset Policy Bulletin at section II.A.2. Further, in a sunset review the Department normally will determine that revocation of an antidumping order or termination of a suspended dumping investigation is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order or the suspension agreement, as applicable; (b) imports of the subject merchandise ceased after issuance of the order or the suspension agreement, as applicable; or (c) dumping was eliminated after the issuance of the order or the suspension agreement, as applicable, and import volumes for the subject merchandise declined significantly. See Sunset Policy Bulletin at section II.A.3.

In making its likelihood determination, the Department considers whether dumping was found in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order or acceptance of suspension agreement. In the investigation, the Department found significant dumping of subject merchandise from Russia. Furthermore, import volumes provided by the domestic interested parties and confirmed by official import statistics from USITC Trade DataWeb, demonstrate that import volumes of hot-rolled steel from Russia decreased following the imposition of the suspended investigation. The Department finds that the existence of dumping at above de minimis levels and

decreases in export volumes after the issuance of the suspended investigation are highly probative of the likelihood of continuation or recurrence of dumping. Given that the absence of argument and evidence to the contrary, the Department determines that dumping is likely to continue or recur if the suspended investigation of hot-rolled steel from Russia were terminated.

2. Magnitude of Margins Likely to Prevail

Interested Party Comments

The domestic interested parties assert that the dumping margins likely to prevail, were the suspended investigation on hot-rolled steel to be terminated, are 73.59 percent for Severstal and 184.56 percent Russia-wide rate. The domestic interested parties note that these margins are also the only margins available. See Domestic Response at 8.

Department's Position:

In the Sunset Policy Bulletin, the Department stated that it normally will provide to the USITC the margin that was determined in the final determination in the original investigation. For companies not specifically investigated or for companies that did not begin shipping until after the order or suspended investigation was issued, the Department normally will provide a margin based on the "all others" rate from the investigation because these rates are the only calculated rates that best reflect the behavior of exporters without the discipline of the order in place. See Sunset Policy Bulletin at section II.B.1. Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. See Sunset Policy Bulletin at section II.B.2 and 3. In this proceeding duty absorption and the use of a more recently calculated margin do not apply.

The Department agrees with the domestic interested parties concerning the margin rate to report to the Commission. In the investigation the Department calculated a 73.59 percent dumping margin for JSC Severstal and a 184.56 percent Russia-wide rate. We find that the rates from the investigation are probative of the behavior of producers and exporters of hot-rolled steel from Russia without the discipline of the suspension agreement, because these are the only calculated rates that reflect the behavior of exporters without the discipline of the order. Therefore, the Department will report to the USITC the company-specific and Russia-wide rate from the investigation as the magnitude of the margin likely to prevail if the suspended investigation were terminated.

Final Results of Review

We determine that revocation of the antidumping duty suspended investigation on hot-rolled steel from Russia would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturers/Producers/Exporters	Weighted-average Margin (percent)
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JSC Severstal	73.59
Russia-Wide Rate	184.56
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<u>Recommendation</u>	

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the Federal Register.

Agree _____ Disagree _____

James J. Jochum
Assistant Secretary
for Import Administration

(Date)